

## **REMARKS**

Claims 1-31 are pending in the application. Claim 11 has been amended to address an informality. No new matter has been added by this amendment.

### **Request for Withdrawal of Finality**

The Examiner has improperly made this Office Action final. MPEP 706.07(a) states "second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)" and "a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will not be made final if it includes a rejection, on newly cited art, other than information submitted in an information disclosure statement filed under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p), of any claim not amended by applicant."

In the Office Action dated December 31, 2007, the Examiner included rejections on U.S. Patent No. 7,013,160 (Tiedemann). Applicants had neither amended the claims nor submitted an information disclosure statement during the period set forth in 37 CFR 1.97(c). In addition, Tiedemann was newly cited art. For either of these reasons, Applicants respectfully request the finality of the Office Action dated December 31, 2007 be withdrawn.

### **§102 Claims Rejection**

Claims 1-5, 11, 17-20, 25-26 and 30-31 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No, 7,013,160 (*Tiedemann*). Applicants respectfully traverse this rejection.

In the Office Action dated December 31, 2007, the Examiner relies on *Tiedemann*, in combination with various other references, to reject all of the pending claims. However, because *Tiedemann*, either alone or in combination with the other references, fails to disclose one or more of the claimed features of all of the independent claims, the Applicants respectfully assert that the pending claims are allowable for reasons presented below.

In general, the present application discloses allowing a technician to remotely monitor, and if desired, adjust the power level of a base station. The ability to remotely calibrate the transmit power reduces the need of dispatching technicians to the physical location of the base station, thereby reducing the time required to perform power calibration procedures. Moreover, because calibration is automated, the possibility of errors is reduced in comparison to the conventional, manual techniques of calibration. Against this general backdrop, the claims will now be discussed.

Claim 1 recites a method comprising receiving a request from a remote unit to provide a power level associated with a transmitting component, wherein the request is transmitted over a communications protocol; measuring a power level of a signal provided by the transmitting component in response to receiving the request from the remote unit; and providing the measured power level to the remote unit over the communications protocol.

*Tiedemann* teaches that a mobile station, upon determining that the transmission power of a base station should be increased, sends a power adjustment request to the base station (col. 5, lines 1-15; col. 8, lines 5-7). In response, the base station modifies its transmission power,

specifically by "increas[ing] or decreas[ing] the transmission power or ... chang[ing] the signal power [by an amount] ... or ... [setting] an absolute signal power level" (col. 5, lines 31-34). The base station then transmits to the mobile station at the modified transmission power for a period of time (col. 8, lines 4-38).

Claim 1 differs from *Tiedemann* in one or more ways. Claim 1 calls for receiving a request from the remote unit to provide a power level associated with a transmitting component. The Examiner argues that this feature is taught by *Tiedemann* because it discloses a mobile station sending a power adjustment request to the base station. *See* Office Action, p. 2. But receiving a request to adjust the power is not the same as receiving a request to provide the power level of a transmitting component, as called for by claim 1. Moreover, claim 1 further calls for measuring the power level based on receiving the request from the remote unit. In *Tiedemann*, there is no such measurement of the power level. Instead, *Tiedemann* discloses that the base station, in response to receiving an indication from the remote unit, increases its transmission power level to a selected level; it does not, as the Examiner contends, measure the power level of any transmitting component. Finally, *Tiedemann* also does not disclose providing the measured power level to the remote unit, as specified in claim 1. Rather, *Tiedemann* discloses that the base station increases the power level of its transmissions. *See Tiedemann*, col. 5, lines 31-34. Thus, while the base station of *Tiedemann* transmits at a particular (higher) power level, it does not transmit the power level itself to the mobile unit. From the mobile unit's perspective, while it may receive transmissions at a higher power level from the base station, the mobile unit in *Tiedemann* is not provided with the power level that it requested (see first claim element). This further demonstrates that *Tiedemann* does not teach or suggest providing the measured power level to the remote unit.

For at least the above reasons, claim 1, and its dependent claims, is believed to be allowable. Additionally, independent claim 31 is also believed to be allowable for at least one or more reasons presented above.

Claim 11 calls for receiving a request from the remote unit to indicate a power level associated with a transmitting component. Moreover, claim 11 further calls for measuring a power level based on receiving the request from the remote unit. As discussed above regarding claim 1, **Tiedemann** discloses neither limitation. For at least the above reasons, claim 11, and its dependent claims, is believed to be allowable.

Claim 17 calls for determining a power level based on receiving a request from a remote unit. Moreover, claim 17 further calls for providing the determined power level to the remote unit. As discussed above regarding claim 1, **Tiedemann** discloses neither limitation. For at least the above reasons, claim 17, and its dependent claims, is believed to be allowable.

Claim 25 calls for measuring a power level based on receiving a request from a remote unit. As discussed above regarding claim 1, **Tiedemann** does not disclose this limitation. Moreover, claim 25 calls for determining if the measured power level is at an acceptable level, and if it is not, adjusting it to an acceptable level. Because **Tiedemann** does not disclose measuring the power level, it cannot disclose further limitations that make use of the measured power level. For at least the above reasons, claim 25, and its dependent claims, is believed to be allowable.

None of the secondary references cited by the Examiner cures the deficiencies in **Tiedemann**. As such, all of the pending claims are believed to be allowable over the references cited by the Examiner.

For the aforementioned reasons, it is respectfully submitted that all claims pending in the present application are in condition for allowance. Reconsideration of the present application is respectfully requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Houston, Texas telephone number (713) 934-4064 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,  
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